

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MONIQUE GRANT,)	Case No. 1:09-cv-2342
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
CSX TRANSPORTATION, INC.)	
)	
Defendant.)	

Before the Court is Defendant CSX Transportation, Inc.'s Motion to Dismiss Plaintiff's Complaint (*ECF No. 6*) under Federal Rule of Civil Procedure 12(b)(6). Defendant argues that Plaintiff's strict liability claim fails as a matter of law and Plaintiff's negligence claim is neither pled with specificity nor pleads a compensable injury.

Plaintiff has moved the Court for leave to file her First Amended Complaint ("Motion for Leave") (*ECF No. 8*) and has opposed Defendant's Motion to Dismiss (*ECF No. 9*). The Court hereby **GRANTS** Plaintiff's Motion for Leave to File First Amended Complaint.

Plaintiff has also attached a First Amended Complaint (*ECF No. 8-1*) to her Motion for Leave. Plaintiff's First Amended Complaint withdraws her strict liability claim. Additionally, the factual allegations in the amended complaint include far more detail about the

manner in which the derailment exposed Plaintiff to toxic chemicals, the physical manifestations of her alleged injury, and her efforts at receiving treatment for her injury. *See ECF No. 8-1* at ¶¶20-29. Accordingly, because Plaintiff has amended her complaint and appears to have addressed the deficiencies in her complaint, Defendant's Motion to Dismiss is **DENIED AS MOOT**.

IT IS SO ORDERED.

/s/Dan Aaron Polster November 19, 2009
Dan Aaron Polster
United States District Judge